

239

Provided also, and be it further Enacted, That if upon the trial of any issue or issues of fact joined between the parties in any civil suit or action depending in any of the said Circuit Courts, twelve good and lawful men shall not appear to form a jury, all such issues of fact shall be tried and decided by the judge of such court alone, and without a jury; and that in all cases where the sum or matter at issue in any such suit or action shall exceed or be of the value of more than Fifty pounds sterling *British* money, the judges of the said courts respectively shall cause the evidence on any such hearing or trial as aforesaid to be taken down in writing by the clerk or other proper officer, in open court, in the presence of the witnesses respectively giving the same, and the evidence so taken shall be entered upon the proceedings of the said courts respectively, and be of record; and in every case in which any Appeal shall be made and allowed under the provisions of this Act, from any judgment of the said Circuit Courts, not founded on the verdict of a jury, copies of all documents and papers which shall have been produced and given in evidence shall be certified by the said

11 clerk, or other proper officer, as authentic; and also copies of any documents and papers which shall have been produced and tendered in evidence and rejected, shall, if required by the party producing the same, be in like manner authenticated, but marked by such officer as aforesaid as rejected, in order that all such copies may be annexed to the record, as part thereof, in case of appeal.

Civil actions to be tried by the judge of the court alone, where jury shall not be formed.

Evidence, where the matter at issue is above the value of 50 £. to be in writing.

On appeal, documents to be produced.

And be it further Enacted, That it shall be lawful for the judges of the said Circuit Courts respectively, on the application of either of the parties plaintiff or defendant, at or before the trial of any issue of fact joined in any civil suit or action commenced in the said Circuit Courts respectively, in case such issue is not tried by a jury, to permit the evidence on such trial to be recorded and certified as aforesaid, although the sum or matter at issue may be less in value than Fifty pounds sterling, provided it shall be made to appear to such judge that the judgment, decree, order or sentence, which may be given made or pronounced in such suit or action, may be of such importance as to render it proper that an appeal should be permitted; and if, after giving or pronouncing such judgment decree or order, the said judge shall be of opinion that such judgment decree or order is of such importance as to make it

12 proper that an appeal should be permitted, it shall be lawful for the said judge to allow either of the said parties, plaintiff or defendant, to appeal to the Supreme Court, in like manner and under and subject to the like rules and regulations, as in and by this Act directed in other cases of appeal.

On application of either of the parties before trial, though the sum does not amount to 50 £. the judge may permit the evidence to be recorded.

And be it further Enacted, That it shall be lawful for the plaintiff or plaintiffs, defendant or defendants, against whom any judgment decree or order of the said Circuit Courts respectively shall be given, for or in respect of any sum or matter at issue above or exceeding the value of Fifty pounds sterling, to appeal therefrom to the said Supreme Court, and the party or parties appealing from such judgment decree or order shall, within fourteen days from the passing thereof, give notice to the

Appeal to the Supreme Court may be made on giving notice.